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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/998,601

11/16/2001

Yukihiko Okumura

3815/144

6209

22913

7590

05/25/2006

WORKMAN NYDEGGER
(F/K/A WORKMAN NYDEGGER & SEELEY)
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EXAMINER

WONG, WARNER

ART UNIT

PAPER NUMBER

2616

DATE MAILED: 05/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/998,601

Applicant(s)

OKUMURA, YUKIHIKO

Examiner

Warner Wong

Art Unit

2616

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 May 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 2 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: Continuation of 11. does NOT place the application in condition for allowance because: The applicant's remarks/arguments are not persuasive.

The applicant argues on p. 3, lines 13-17, that the motivation provided in the last office action to combine Okumura and Oliver. The examiner respectfully disagrees. The examiner understands that both the teachings of Okumura and Oliver are improvements over the existing transmission method for transmission frames comprising data and CRC's. The specific matter of blind rate detection is of minute importance, and any cited motivation may be used for combining both teachings. Hence, the teachings of Okumura and Oliver's may be combined.

The applicant argues on p. 3, lines 18-20, that the combined teaching of Okumura and Oliver does not lead to a feature of the present invention where the length of the transmission data is one of (only) two values, 0 and X (where CRC is appended only for data with length X). The examiner respectfully disagrees. From exhibit C of applicant's remarks which summarizes the combined teaching of Okumura and Oliver, the combined teaching is more broader than the claimed language in which it supports multiple transmission rates. It would have been obvious to one with ordinary skill or art at the time of invention by applicant to limit the transmission rates to either rate 1 or rate 0 to match that of the present invention (also visually shown in exhibit C).

The applicant argues on p. 4, lines 7-14, that the combined teaching of Okumura and Oliver yield an disadvantage in which the rate information is contained in the header and that the transmission efficiency drops. Furthermore, the assumption of only one [fixed] bit position is not disclosed in the combined teaching. The examiner respectfully disagrees. For both arguments, the examiner noted that the claim language lacks such explicit restrictions (i.e., fixed rate with fixed one/final bit position, where the frame header does not contain the rate information) for yielding a higher transmission efficiency.

The applicant argues on p. 4, lines 15-23, and p. 5, lines 1-7, that the plurality of final bit positions yield a disadvantage where the possibility of incorrect detection becomes high. The examiner noted that the claim language lacks any description reciting such advantages/disadvantages



RICKY Q. NGO
SUPERVISORY PATENT EXAMINER